



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 31507540

Date: JUL. 31, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a practitioner of Shaolin kungfu, seeks classification as an individual of extraordinary ability. Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand this matter for the entry of a new decision consistent with the following analysis.

## I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide

sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner is a Shaolin kungfu practitioner and instructor at the [REDACTED] [REDACTED] a school he founded in China, as well as the founder of the [REDACTED] which studies an ancient and specialized form of kungfu. The Petitioner also co-founded the [REDACTED] an international association promoting the continued teachings of Xinyiba wushu, or kungfu, throughout the world. The Petitioner intends to continue his work and to found schools to teach this form of kungfu in the United States.

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Director determined that the Petitioner met two of the criteria he claimed to have satisfied: published material about him in professional or major trade publications or other major media and participation as a judge of the work of others in his field. *See* 8 C.F.R. § 204.5(h)(3)(iii) and (iv). The record supports that determination. However, the Director concluded the Petitioner did not establish that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(ii), (v) and (viii). On appeal, the Petitioner asserts that he meets these criteria, and he contends that the Director erred in evaluating the submitted evidence. Upon review, we conclude that the Petitioner has met the criteria at 8 C.F.R. § 204.5(h)(3)(ii).

*Documentation of the individuals membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii).*

The Petitioner submitted evidence of his membership in the International Wushu Association, which operates in cooperation with the Wushu Administrative Center of the General Administration of Sport of China, the government agency responsible for sports in mainland China. The association also operates under the provisions of the Olympic Charter. The association assigns ranks to wushu practitioners based on expertise. In denying the petition, the Director determined that the Petitioner had not provided the association's membership requirements, stating the following:

The evidence submitted does not demonstrate that the association requires outstanding achievements as an essential condition of their members for admission as judged by

recognized national or international experts in their disciplines or fields. Furthermore, the evidence indicates that there are dues/fees.

Upon review of the record, we disagree with the Director's determination. The submitted evidence reflects that the Petitioner is a member of the standing committee within the International Wushu Association requiring outstanding achievements of its members as judged by recognized national or international experts in the field. The provided evidence does not indicate that this level of membership in the association requires the payment of dues or fees to obtain or retain membership. The Petitioner initially submitted membership applications describing requirements on which the applicants would be assessed and information about the reviewing panel, including career descriptions and credentials as evidence of their expertise in the field of kungfu. The Petitioner also submitted evidence showing his membership rank is eighth within the Chinese Wushu Dan (Duan) Level System, which equates the seventh, eighth, and ninth dans as senior levels. The application for membership also lists requirements related to length of practice, knowledge and proficiency, awards, media coverage, teaching history, and active promotion of martial arts education. The application further lists an interview requirement and the following stipulation:

The final review result of membership application depends on the situation. The admission rate will not exceed 5%; if the number of applicants is over 1000, the admission rate will be adjusted at no more than 3%.

In addition, a manual submitted about the association further details membership requirements to be considered, such as whether an applicant has played "an irreplaceable or essential role in the heritage, conservation and development of a type of wushu that has been proved very rare and valuable," has "made great contributions to the education, communication or promotion of martial arts," has "a major social influence or reputation in the field of martial arts," or represents "the highest level of a certain genre of wushu." The manual also stipulates the following:

To ensure professionalism of members, applicants who are commonly recognized as professional / outstanding in the field of martial arts may possess a higher possibility for acceptance to the International Wushu Association. The final result of a membership application will be subject to the consensus of the reviewing panel.

Further, the Petitioner submitted evidence of his advanced membership in the association as part of the standing committee. The Petitioner provided evidence describing standing committee membership stating that, in addition to having acquired a senior dan level and interviewing with the association's president, vice presidents and secretary general, advanced membership "requires unique contributions to the field of martial arts." A plain reading of this language indicates that membership is not based solely on meeting specific criteria, but on having outstanding achievements as judged by recognized national or international experts in the field. Associations may have multiple levels of membership. The level of membership afforded to the person must show that in order to obtain that level of membership, recognized national or international experts judged the person as having attained outstanding achievements in the field for which classification is sought.<sup>1</sup>

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<sup>1</sup> See generally 6 *USCIS Policy Manual* F.2(B)(1), criterion 2, <https://www.uscis.gov/policy-manual>.

We conclude that the record includes sufficient evidence demonstrating that the Petitioner's membership in the International Wushu Association as a standing committee member, more likely than not, requires outstanding achievements as judged by recognized national or international experts in the field of kungfu. Therefore, the evidence of record meets the plain language of this criterion.

### III. CONCLUSION

The Petitioner has met the requisite three of ten initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(ii), (iii), and (iv). We therefore need not consider whether he met additional claimed criteria at 8 C.F.R. § 204.5(h)(3)(v) or (viii).

We will withdraw the Director's denial of the petition and remand the matter for further review and entry of a new decision. The Director may request any additional evidence considered pertinent to the new determination and any other issues. As such, we express no opinion regarding the ultimate resolution of this matter on remand. On remand, the Director should conduct a final merits review of the evidence of record. The new decision should include an analysis of the totality of the evidence evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, his status as one of the small percentage at the very top of his field of endeavor, and that his achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.